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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1220 of 2015**

- Anand Kumar Ekka son of late Aglus Ekka, aged about 39 years, resident of Public Health Engineering, Sub - Division, Pratappur, Police Station and Post-Pratappur, District-Surajpur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Chief Secretary, Public Health Engineering Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur (CG)
2. The Undersecretary, Government of Chhattisgarh, Public Health Engineering Department Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur (CG)
3. The Engineer-In-Chief, Public Health Engineering, Raipur District Raipur (CG)
4. U.S. Pawar, Sub-Engineer, Public Health Engineering, Sub-Division, Baikunthpur, District-Korea (CG)
5. Gyanesh Mishra, Sub-Engineer, Public Health Engineering, Office of Superintending Engineer, Circle Ambikapur, District-Surguja (CG)

---- Respondents

And**WPS No. 1221 of 2015**

- Santosh Kumar Verma, son of Bhagwandeem Verma, aged about 55 years, resident of Public Health Engineering, Sub-Division, Pratappur, Police Station and Post-Pratappur, District-Surajpur (CG)

---- Petitioner

Vs

1. State of Chhattisgarh, Through the Chief Secretary, Public Health Engineering Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur (CG)
2. The Undersecretary, Government of Chhattisgarh, Public Health Engineering Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur (CG)
3. The Engineer-In-Chief, Public Health Engineering, Raipur District-Raipur

(CG)

4. U.S. Pawar, Sub-Engineer, Public Health Engineering, Sub-Division, Baikunthpur, District-Korea (CG)
5. Gyanesh Mishra, Sub-Engineer, Public Health Engineering, Office of Superintending Engineer, Circle Ambikapur, District-Surguja (CG)

---- Respondents

For Petitioners : Shri BP Sharma, Advocate.
For Respondent/State : Shri PK Bhaduri, Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

10/04/2015

1. The petitioners are Sub Engineers in the Department of Public Health Engineering. By order dated 15.7.2014 they were transferred from the present place of posting at Pratappur, District Surguja to Jagdalpur and Sukma, respectively.
2. Contending that the petitioners have already worked for about 15 years in the scheduled area, reliance was placed on the State Government circular dated 20.10.2005 to pray that the transfer orders deserve to be quashed, as options were not sought from the petitioners for transfer to non-scheduled area, as has been envisaged in the said circular.
3. This Court decided the petitioners' writ petition (S) No.3492/2014 and WP(S) No.3473/2014 vide order dated 4.2.2015, inter alia, finding that generally the Courts should not go into the expediency of posting an officer at a particular place because if the day to day orders issued by the government or its subordinate authorities are subjected to judicial interference, it would lead to a

complete chaos in the administration which would not be conducive to the public interest. While dealing with the transfer matters, it has been reiterated by the Apex Court that the Courts or Tribunals are not the appellate forums to decide such matters and the focus should always be on the smooth discharge of administrative functions. Even if the State Government has made policy as to posting of its employees in scheduled areas, but in the administrative exigencies the employee can always be transferred. Thus, considering the law expounded by the Apex Court in relation to transfer, the writ petitions were dismissed. However, this Court further observed that considering the fact that the petitioners have already served in the scheduled area for about 15 years, which is severely affected by the Naxal activities, it would be open for the petitioners to make representation before the competent authority for redressal of their grievances and on such representation being made, it would be for the competent authority to consider the representation in accordance with law.

4. By the present impugned order, the representations filed by the petitioners have been dismissed. Placing reliance on Division Bench judgment of this Court in the matter of **Umend Singh Marko & others Vs. State of Chhattisgarh & others** {WA No.205/2015, decided on 26.3.2015} and the circular dated 20.10.2005, learned counsel has strenuously urged that the respondents have not considered the representations in its true perspective and the grievances raised in the representations have not been dealt with. He would submit that the representations have been decided by a non-speaking order. Therefore, in view of the order passed in the matter of **Umend Singh Marko** (Supra), the impugned order is violative of principles of natural justice.
5. In **Umend Singh Marko** (Supra), this Court was dealing with the matter

concerning supersession of cooperative society wherein the writ petition was dismissed on the ground of availability of alternative remedy. However, the Division Bench found that although show cause notice was issued to the said petitioners, but the facts stated in the reply to the show cause notice were not considered by the statutory authority, therefore, there was violation of principles of natural justice while exercising the statutory powers.

6. In the case at hand, neither on earlier occasion nor in these writ petitions, the Court is confronted with exercise of statutory powers by the respondents or any of the enforceable right of the petitioners. In such a situation, neither principles of natural justice are attracted nor the authorities deciding the representation is bound to assign such reasons which the petitioners want to be referred in the order. While deciding the representation, in the matters concerning transfer of an employee, the authorities have mentioned that the order has been passed in administrative exigency which is found to be appropriate, therefore, there is no ground for reconsidering or canceling the transfer order.
7. The petitioners' contention that the authorities should have appreciated the petitioners' posting in the scheduled area for 15 years, as has been referred by this Court in para-7 of the order also lacks punch because in the earlier part of the order, while dealing with the arguments flowing from circular dated 20.10.2005, this Court has refused to interfere on merits. Once the facts and grounds which provided the petitioners some arguments to allege violation of circular dated 20.10.2005 has been dealt with by this Court in the earlier round of litigation and the same did not find favour, in the second round of litigation, this Court is not in a position to take any different view of the matter.

8. It has also been argued that representations should have been considered by the Committee whereas the impugned order has been passed by the Secretary of the Department.
9. In para-5 of the impugned order, it is mentioned that the representation was submitted before the competent authority, therefore, it cannot be said that the representation has been considered by the authority who is not competent. On this count, learned State counsel would submit that as per the procedure adopted by the State Government, whenever representation is submitted in terms of para-6 of the transfer policy, the same is placed before the Committee of Senior Secretaries and based on nature of recommendations of the Committee, final order is passed by the concerned Secretary. On this count also, there is no substance in the argument.
10. Therefore, the writ petitions fail and are hereby dismissed.

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